

AMENDED IN ASSEMBLY SEPTEMBER 7, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 880

Introduced by Senator Corbett

February 18, 2011

~~An act to amend Section 21092.2 of, and to repeal Section 21162 of, the Public Resources Code, relating to environmental quality. An act to amend Sections 1353.9 and 1363.07 of the Civil Code, relating to common interest developments.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 880, as amended, Corbett. ~~Environmental quality: environmental impact report: notice of completion.~~ *Common interest developments: electric vehicle charging stations.*

The Davis-Stirling Common Interest Development Act defines and regulates common interest developments, which include community apartment projects, condominium projects, planned developments, and stock cooperatives. Beginning January 1, 2012, any covenant, restriction, or condition in a deed or other instrument affecting the transfer or sale of an interest in a common interest development, or any provision of the governing documents of a common interest development, that prohibits or restricts the installation or use of an electric vehicle charging station is void and unenforceable. On and after January 1, 2012, if an electric vehicle charging station is to be placed in a common area, the homeowner and common interest development association shall be subject to certain requirements.

This bill would make those provisions applicable only to the installation or use of an electric vehicle charging station in an owner's designated parking space, as described. The bill would also provide

that any provision in those documents that is in conflict with those requirements is void and unenforceable. The bill would authorize the installation of a charging station in a common area that is not an exclusive use common area only if installation in the owner's designated parking space is impossible or unreasonably expensive. However, the bill would authorize an association or owners to install a charging station in the common area for use of all members, and would require the association to develop appropriate terms of use for the charging station. The bill would authorize the board of directors of an association to grant exclusive use of a portion of the common area without the affirmative vote of the members of the association for the purpose of installing and using an electric vehicle charging station in an owner's garage or designated parking space, under specified circumstances, such as when the installation or use of the charging station requires reasonable access through the common area for utility lines or meters.

~~(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.~~

~~CEQA requires that notices regarding a lead agency determination to require an EIR or other actions taken pursuant to that act be mailed to every person who files a written request.~~

~~This bill would additionally require a notice of completion of an EIR by a public agency to be mailed upon request, thereby imposing a state-mandated local program by imposing new duties upon local agencies.~~

~~(2) The California Environmental Quality Act requires the State Clearinghouse to provide to a legislator in whose district a project has an environmental impact the notice of completion of an EIR on the project if the legislator requests the notice and the State Clearinghouse has received the notice.~~

~~This bill would instead require the State Clearinghouse to provide a notice of a determination by a lead agency that an EIR is required for a project and a notice of completion of an EIR by a public agency if the legislator requests the notice and the State Clearinghouse has received the requested notice.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.

State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1353.9 of the Civil Code, as added by
2 Section 1 of Chapter 121 of the Statutes of 2011, is amended to
3 read:

4 1353.9. (a) Any covenant, restriction, or condition contained
5 in any deed, contract, security instrument, or other instrument
6 affecting the transfer or sale of any interest in a common interest
7 development, and any provision of a governing document, as
8 defined in subdivision (j) of Section 1351, that *either* effectively
9 prohibits or restricts the installation or use of an electric vehicle
10 charging station *in an owner's designated parking space, including,*
11 *but not limited to, a deeded parking space, a parking space in an*
12 *owner's exclusive use common area, or a parking space that is*
13 *specifically designated for use by a particular owner, or is in*
14 *conflict with the provisions of this section* is void and
15 unenforceable.

16 (b) (1) This section does not apply to provisions that impose
17 reasonable restrictions on electric vehicle charging stations.
18 However, it is the policy of the state to promote, encourage, and
19 remove obstacles to the use of electric vehicle charging stations.

20 (2) For purposes of this section, "reasonable restrictions" are
21 restrictions that do not significantly increase the cost of the station
22 or significantly decrease its efficiency or specified performance.

23 (c) An electric vehicle charging station shall meet applicable
24 health and safety standards and requirements imposed by state and
25 local ~~permitting~~ *authorities as well as all other applicable zoning,*
26 *land use or other ordinances, or land use permits.*

27 (d) For purposes of this section, "electric vehicle charging
28 station" means a station that is designed in compliance with the
29 California Building Standards Code and delivers electricity from
30 a source outside an electric vehicle into one or more electric

1 vehicles. An electric vehicle charging station may include several
2 charge points simultaneously connecting several electric vehicles
3 to the station and any related equipment needed to facilitate
4 charging plug-in electric vehicles.

5 (e) If approval is required for the installation or use of an electric
6 vehicle charging station, the application for approval shall be
7 processed and approved by the association in the same manner as
8 an application for approval of an architectural modification to the
9 property, and shall not be willfully avoided or delayed. The
10 approval or denial of an application shall be in writing. If an
11 application is not denied in writing within 60 days from the date
12 of receipt of the application, the application shall be deemed
13 approved, unless that delay is the result of a reasonable request
14 for additional information.

15 (f) If the electric vehicle charging station is to be placed in a
16 common area or an exclusive use common area, as designated in
17 the common interest development's declaration, the following
18 provisions apply:

19 (1) The ~~homeowner~~ owner first shall obtain approval from the
20 ~~common interest development~~ association to install the electric
21 vehicle charging station and the ~~common interest development~~
22 association shall approve the installation if the ~~homeowner~~ owner
23 agrees in writing to do all of the following:

24 (A) Comply with the ~~common interest development's~~
25 association's architectural standards for the installation of the
26 charging station.

27 (B) Engage a licensed contractor to install the *charging* station.

28 (C) Within 14 days of approval, provide a certificate of
29 insurance that names the ~~common interest development~~ association
30 as an additional insured under the ~~homeowner's~~ owner's insurance
31 policy *in the amount set forth in paragraph (3)*.

32 (D) Pay for the electricity usage associated with the *charging*
33 station.

34 (2) The ~~homeowner~~ owner and each successive ~~homeowner~~
35 owner of the ~~parking stall on which or near where the electric~~
36 vehicle charging station is placed shall be responsible for all of
37 the following:

38 (A) Costs for damage to the *charging* station, common ~~areas~~
39 area, exclusive use common ~~areas~~ area, or adjacent units *separate*

1 *interests* resulting from the installation, maintenance, repair,
2 removal, or replacement of the *charging* station.

3 (B) Costs for the maintenance, ~~removal~~, repair, and replacement
4 of the ~~electric vehicle~~ charging station until it has been removed
5 ~~from the common area or exclusive use common area~~ and for the
6 *restoration of the common area after removal*.

7 (C) The cost of electricity associated with the *charging* station.

8 (D) Disclosing to prospective buyers the existence of any ~~electric~~
9 ~~vehicle~~ charging station *of the owner* and the related responsibilities
10 of the ~~homeowner~~ owner *under this section*.

11 (3) The ~~homeowner~~ owner and each successive ~~homeowner~~
12 *owner of the charging station*, at all times, shall maintain an
13 umbrella liability coverage policy in the amount of one million
14 dollars (\$1,000,000) covering the obligations of the owner under
15 paragraph (2), and shall name the ~~common interest development~~
16 *association* as an additional insured under the policy with a right
17 to notice of cancellation.

18 (g) *Except as provided in subdivision (h), installation of an*
19 *electric vehicle charging station in a common area, that is not an*
20 *exclusive use common area, shall be authorized by the association*
21 *only if installation in the owner's designated parking space that*
22 *is owned in fee or as an exclusive use easement is impossible or*
23 *unreasonably expensive. In such cases, the association shall enter*
24 *into a license agreement with the owner for the use of the space*
25 *in a common area, and shall comply with all of the requirements*
26 *in subdivision (f).*

27 (h) *The association or owners may install an electric vehicle*
28 *charging station in the common area for the use of all members*
29 *of the association and, in that case, the association shall develop*
30 *appropriate terms of use for the charging station.*

31 (i) *An association may create a new parking space where one*
32 *did not previously exist to facilitate the installation of an electric*
33 *vehicle charging station.*

34 ~~(g)~~

35 (j) An association that willfully violates this section shall be
36 liable to the applicant or other party for actual damages, and shall
37 pay a civil penalty to the applicant or other party in an amount not
38 to exceed one thousand dollars (\$1,000).

39 ~~(h)~~

1 (k) In any action to enforce compliance with this section, the
2 prevailing plaintiff shall be awarded reasonable attorney's fees.

3 *SEC. 2. Section 1363.07 of the Civil Code is amended to read:*

4 1363.07. (a) After an association acquires fee title to, or any
5 easement right over, a common area, unless the association's
6 governing documents specify a different percentage, the affirmative
7 vote of members owning at least 67 percent of the separate interests
8 in the common interest development shall be required before the
9 board of directors may grant exclusive use of any portion of that
10 common area to any member, except for any of the following:

11 (1) A reconveyance of all or any portion of that common area
12 to the subdivider to enable the continuation of development that
13 is in substantial conformance with a detailed plan of phased
14 development submitted to the Real Estate Commissioner with the
15 application for a public report.

16 (2) Any grant of exclusive use that is in substantial conformance
17 with a detailed plan of phased development submitted to the Real
18 Estate Commissioner with the application for a public report or in
19 accordance with the governing documents approved by the Real
20 Estate Commissioner.

21 (3) Any grant of exclusive use that is for any of the following
22 reasons:

23 (A) To eliminate or correct engineering errors in documents
24 recorded with the county recorder or on file with a public agency
25 or utility company.

26 (B) To eliminate or correct encroachments due to errors in
27 construction of any improvements.

28 (C) To permit changes in the plan of development submitted to
29 the Real Estate Commissioner in circumstances where the changes
30 are the result of topography, obstruction, hardship, aesthetic
31 considerations, or environmental conditions.

32 (D) To fulfill the requirement of a public agency.

33 (E) To transfer the burden of management and maintenance of
34 any common area that is generally inaccessible and not of general
35 use to the membership at large of the association.

36 (F) Any grant in connection with an expressly zoned industrial
37 or commercial development, or any grant within a subdivision of
38 the type defined in Section 1373.

39 (G) *To install and use an electric vehicle charging station in*
40 *an owner's garage or a designated parking space that meets the*

1 *requirements of Section 1353.9, where the installation or use of*
2 *the charging station requires reasonable access through, or across,*
3 *the common area for utility lines or meters, or to install and use*
4 *an electric vehicle charging station through a license granted by*
5 *an association under Section 1353.9.*

6 (b) Any measure placed before the members requesting that the
7 board of directors grant exclusive use of any portion of the common
8 area shall specify whether the association will receive any monetary
9 consideration for the grant and whether the association or the
10 transferee will be responsible for providing any insurance coverage
11 for exclusive use of the common area.

12 ~~SECTION 1. Section 21092.2 of the Public Resources Code~~
13 ~~is amended to read:~~

14 ~~21092.2. (a) The notices required pursuant to Sections 21080.4,~~
15 ~~21083.9, 21092, 21108, 21152, and 21161 shall be mailed to every~~
16 ~~person who has filed a written request for notices with either the~~
17 ~~clerk of the governing body or, if there is no governing body, the~~
18 ~~director of the agency. If the agency offers to provide the notices~~
19 ~~by e-mail, upon filing a written request for notices, a person may~~
20 ~~request that the notices be provided to him or her by e-mail. The~~
21 ~~request may also be filed with any other person designated by the~~
22 ~~governing body or director to receive these requests. The agency~~
23 ~~may require requests for notices to be annually renewed. The public~~
24 ~~agency may charge a fee, except to other public agencies, that is~~
25 ~~reasonably related to the costs of providing this service.~~

26 ~~(b) Subdivision (a) shall not be construed in any manner that~~
27 ~~results in the invalidation of an action because of the failure of a~~
28 ~~person to receive a requested notice, if there has been substantial~~
29 ~~compliance with the requirements of this section.~~

30 ~~(c) The notices required pursuant to Sections 21080.4 and 21161~~
31 ~~shall be provided by the State Clearinghouse to any legislator in~~
32 ~~whose district the project has an environmental impact, if the~~
33 ~~legislator requests the notice and the State Clearinghouse has~~
34 ~~received it.~~

35 ~~SEC. 2. Section 21162 of the Public Resources Code is~~
36 ~~repealed.~~

37 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
38 ~~Section 6 of Article XIII B of the California Constitution because~~
39 ~~a local agency or school district has the authority to levy service~~
40 ~~charges, fees, or assessments sufficient to pay for the program or~~

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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